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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BARTELL RANCH LLC, et al.,

Plaintiffs,

v.

ESTER M. MCCULLOUGH, et al.,

Defendants,

and

LITHIUM NEVADA CORPORATION,

Intervenor-Defendant

Case No.: 3:21-cv-80-MMD-CLB
(LEAD CASE)

**JOINT MOTION BY
ENVIRONMENTAL PLAINTIFFS AND
FEDERAL DEFENDANTS FOR STAY
OF BRIEFING ON PLAINTIFFS'
MOTION FOR ATTORNEYS FEES AND
EXPENSES**

WESTERN WATERSHEDS PROJECT, et al.,

Case No.: 3:21-cv-103-MMD-CLB
(**CONSOLIDATED CASE**)

Plaintiffs,

and

RENO SPARKS INDIAN COLONY,

Intervenor-Plaintiff,

and

BURNS PAIUTE TRIBE,

Intervenor-Plaintiff,

v.

UNITED STATES DEPARTMENT OF THE
INTERIOR, et al.,

Defendants,

and

LITHIUM NEVADA CORPORATION,

Intervenor-Defendant.

Plaintiffs Western Watersheds Project, et al. (WWP), and the Federal Defendants, the United States Bureau of Land Management et al. (BLM), file this Joint Motion to stay briefing on WWP’s Motion for attorneys’ fees and expenses, in order to facilitate negotiations that may result in settlement of WWP’s Motion.

Pursuant to the Equal Access to Justice Act, 28 U.S.C. §2412 (EAJA), WWP filed its Motion on November 10, 2023 (ECF No. 309). The Federal Defendants’ response to WWP’s Motion is due on November 24, 2023. In order to meet EAJA’s filing deadline, 28 U.S.C. §2412(d)(1)(B), and in support of potential settlement, WWP filed a “placeholder” fees motion, meeting the requirements of EAJA, while allowing the parties to pursue settlement and avoid

1 further briefing and evidence submittals while negotiations continue. *See* Greenpeace v. Stewart,
2 No. 17-35945, 2020 WL 2465321, *4-5 (9th Cir. Commissioner, May 12, 2020)(approving use
3 of placeholder fees motion to facilitate settlement).
4

5 WWP and the Federal Defendants are currently engaged in negotiations and propose that
6 briefing be stayed while these discussions are ongoing. In the event that a settlement cannot be
7 reached, the parties further propose that WWP and the Federal Defendants will inform the Court
8 and, at that time, file a joint schedule to allow WWP to amend its Motion and submit additional
9 declarations and materials in support of its Motion, as well as a schedule for the Federal
10 Defendants' response and WWP's reply.
11

12 Accordingly, WWP and the Federal Defendants respectfully request that this Court issue
13 an Order such that:
14

- 15 1. Briefing on WWP's Motion is stayed;
- 16 2. The parties will submit a status report on the potential settlement of WWP's
17 Motion within 60 days of the date of this Court's Order on this Joint Motion; and
- 18 3. If settlement cannot be reached, WWP and the Federal Defendants will file a joint
19 schedule for WWP to amend its Motion, and include additional declarations and materials in
20 support, as well as for the Federal Defendants' response and WWP's reply.
21

22 Respectfully submitted this 10th day of November, 2023.

23 /s/ Roger Flynn
24 Roger Flynn
25 Jeffrey C. Parsons
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15 /s/ Michael K. Robertson (signed with permission)
16 Michael K. Robertson (DC Bar 1017183)
17 Trial Attorney, U.S. Department of Justice, Natural Resources Section
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22 Attorney for Federal Defendants

23 **CERTIFICATE OF SERVICE**

24 I hereby attest that I served the foregoing on counsel of record for all parties via the
25 Court's CM/ECF system, this 10th day of November, 2023.

26 /s/ Roger Flynn

27 Roger Flynn

28 **IT IS SO ORDERED.**

DATED: November 13, 2023



CHIEF U.S. DISTRICT JUDGE
MIRANDA M. DU